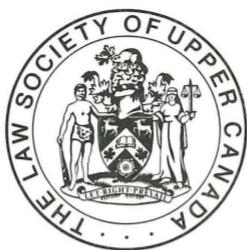


**The Law Society of Upper Canada**

**ANNUAL REPORT**

**June 30, 1990**



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## *Membership Statistics*

Members in good standing as at June 30, 1990:

Members in private practice

Sole practitioners	4,307
Partners in law firms	5,951
Employees of law firms	2,712
Associates	<u>1,914</u> <u>14,884</u>

Members otherwise employed

Education	208
Government	1,878
Other	<u>2,742</u> <u>4,810</u>

Members not employed in Ontario

Retired	1,818
Residing out of province	<u>989</u> <u>2,807</u>
Total members in good standing	<u>22,501</u>

Other membership data

(statistics since 1975)

Membership in abeyance	1,297
Resigned at own request	177
Permitted to resign	67
Disbarred	194
Non-resident/Non-Canadian	16

# POPULATION STATISTICS

*Admissions and total membership  
— ten year history*

YEAR	ADMISSIONS				
	MALE	%	FEMALE	%	MEMBERS
1981	753	69.7	327	30.3	14,984
1982	701	67.1	344	32.9	15,742
1983	686	69.3	304	30.7	16,278
1984	688	67.1	337	32.9	16,991
1985	666	63.4	384	36.6	17,756
1986	689	62.1	421	37.9	18,588
1987	672	59.0	467	41.0	19,442
1988	672	57.3	501	42.7	20,417
1989	690	58.4	492	41.6	21,477
1990	695	59.8	468	40.2	22,501

*Membership, 1990 and 1989*

	1990		1989	
	NUMBER	%	NUMBER	%
Male	17,466	77.6	16,870	78.5
Female	5,035	22.4	4,607	21.5
Total	22,501	100.0	21,477	100.0

*Membership, by age range and sex, 1990*

Age range	Members		Per cent	
	Male	Female	Male	Female
Under 30	1,618	1,220	57.0%	43.0%
30-39	6,349	2,747	69.8%	30.2%
40-49	5,343	858	86.2%	13.8%
50-65	2,863	160	94.7%	5.3%
Over 65	1,293	50	96.3%	3.7%
	<u>17,466</u>	<u>5,035</u>	<u>77.6%</u>	<u>22.4%</u>

*Membership geographical distribution, 1990*

	Toronto		Other Ontario		Canada		Other Countries		Total	
					Outside Ontario					
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Fee paying members	8,254	2,853	7,622	1,902	516	165	193	73	16,585	4,993
Life members	184	12	200	5	10	0	2	0	396	17
Excused fee	197	10	245	11	32	3	11	1	485	25
Total	<u>8,635</u>	<u>2,875</u>	<u>8,067</u>	<u>1,918</u>	<u>558</u>	<u>168</u>	<u>206</u>	<u>74</u>	<u>17,466</u>	<u>5,035</u>

## Committee Reports

### ADMISSIONS COMMITTEE

*Chair: P. J. Peters, Q.C.*

#### • Calls and Admissions

During the period July 1, 1989 to June 30, 1990, the Admissions Committee received 61 applications to transfer to practice in Ontario from members of other Canadian provincial bars. The breakdown of these applications is as follows:

Alberta	15
British Columbia	9
Manitoba	3
New Brunswick	2
Newfoundland	2
Nova Scotia	4
Quebec	22
Saskatchewan	<u>4</u>
	<u>61</u>

Under s. 4 of the Regulation, which governs the transfer to practice in Ontario of members of other Canadian provincial bars, 24 applicants were called to the Bar and admitted as solicitors.

Under s. 5 of the Regulation, which governs the transfer of admission of law teachers, six professors were called to the Bar and admitted as solicitors.

Under s. 6 of the Regulation, which governs the admission of members of the other Canadian provincial bars for occasional court appearances, 21 applicants were called to the Bar and admitted as solicitors.

### LEGAL EDUCATION COMMITTEE

*Chair: Allan M. Rock, Q.C.*

#### • Bar Admission Course

The first sessions of the one-month Bar Admission Course teaching term ran in London, Ottawa, and Toronto from May 14 to June 8, June 18 to July 13, and July 23 to August 17. The program was offered in Ottawa both in English and French.

The one-month session offers, through small group teaching, a practical lawyering skills program designed to prepare students to take better advantage of the articling experience.

Following completion of the one-month session, all students must complete an articling year. They will then return to the Bar Admission Course on September 16, 1991 to complete a three-month program in London, Ottawa or Toronto. The three-month program is once again offered in a small group environment. Students will work through hypothetical client files in a number of basic practice areas. The three-month session includes problem solving, skills education, skills assessment, and examinations.

For the first time the Bar Admission Course includes a staff Faculty. Eight lawyers have joined the staff of the Law Society in Toronto as the first members of the full-time Faculty. Two lawyers have joined in Ottawa and one lawyer has joined in London.

#### • **Articling**

The Articling Reform Subcommittee has produced a further draft of its Articling Reform Report, which it intends to present to the Benchers for approval in September of 1990 after consultation with the profession. The focus of the Report is to enhance articling as an educational experience. The Report proposes criteria for approval of lawyers as articling principals, and sets up a system for the joint-filing of an Articling Education Plan by each principal and student at the beginning of the articling year. The principal and student will be required to file a mid-year and an end-of-year report, both of which will be monitored by the Department of Education staff to encourage enhancement of the quality of articles.

#### • **Continuing Legal Education**

The Benchers have established the new Continuing Legal Education Reform Subcommittee to re-examine the mandate of the Law Society in continuing legal education, with a focus on establishing a curriculum approach to education and providing a high quality of continuing legal education throughout the province. It is anticipated that a preliminary report of the Subcommittee will be produced in September, and that in the near future the final Report will set a new direction for what now is a fairly traditional continuing legal education operation.

### • Bursaries

The Law Society gratefully acknowledges donations from the following individuals and groups which have created bursaries in the Bar Admission Course.

The Maxwell A. Levy, Q.C. Memorial Bursary — established by his wife, Fanny, and his son, Robert, in 1982.

The C.E. Woollcombe, Q.C. Memorial Bursary — established in 1983 by the firm Day, Wilson, Campbell.

The Lawyers' Club Bursary — established in 1983 by the Lawyers' Club.

The Murray L. Keyfetz, Q.C. Memorial Bursary — established in 1987 by his wife, Margaret, and his daughter, Lynda.

The Class of 1951 Bursary — established by the Osgoode Hall Class of 1951.

The Joseph Philip Chetner Memorial Bursary — established by the firm of Torkin, Manes, Cohen & Arbus in memory of Mr. Chetner, a partner who passed away in November 1988.

The Terence Sheard, C.B.E., Q.C. Memorial Bursary — established by Mrs. Terence Sheard in 1989.

The Murray E. Corlett, Q.C. Bursary — established in 1989 by his cousin Mrs. Margaret Chambers upon Mr. Corlett's retirement from the practice of law after 51 years.

The Honourable John Arnup, O.C. Bursary — established by the Trustees of the Lawyers' Club in recognition of his considerable achievements over the years as a Past President of the Club, as a member of the Bench and Bar, and also his particular interest in the furtherance of legal education in the Province of Ontario.

### FINANCE COMMITTEE

*Chair: John D. Ground, Q.C.*

The Financial Statements show the status of the three main Law Society Funds together with the results of operations for the year ended June 30, 1990. The General Fund includes all professional and administrative operations of the Law Society, encompassing also the Bar Admission Course, Continuing Legal Education and the Great Library. The Errors and Omissions Insurance and Compensation Funds are kept as separate special purpose funds.

### • General Fund

The major change to the presentation of the General Fund this year is in the Balance Sheet where the Society now shows its fixed assets at cost less accumulated depreciation. In prior years the Society recorded its fixed asset additions as an appropriation from operating surplus for major capital expenditure and the financial statements made no provision for depreciation. It is appropriate that this change take place this year as the Society has embarked upon a two-year project to renovate existing space and add three floors over the Bar Admission Course wing at a total cost of approximately \$13,500,000. While the carrying cost of the assets is shown at \$7,664,226, which represents historical cost of building and equipment less accumulated depreciation, insurance is carried at \$46,820,000 replacement value. On the liability side of the balance sheet a separate section entitled "Members Equity" is shown and is segregated into two components — "Undesignated Operating Surplus" and "Equity in Fixed Assets" — to reflect the members' investment in capital assets based on their carrying cost.

In addition to the above, the Society had the opportunity to purchase the premises it was renting in Ottawa for the Bar Admission Course at a favourable price. Approximately one-half of the funding, or \$1,238,000, was provided by the Law Foundation of Ontario. In addition to the Bar Admission Course, this new facility will house expanded C.L.E. and Communications programs and provide a base for expanded services to members and the public in the French language.

The Statement of Revenues and Expenses for the General Fund shows general revenues up 8.5%, or \$1,684,632, to \$21,354,418, whereas general expenses increased 16.3%, or \$2,943,548, to \$20,945,728. Major factors contributing to the increase in expenditure were new and expanded programs to service an increased membership; outside counsel fees in Discipline, Unauthorized Practice and the Secretariat; and extra rent incurred to relocate offices during the first phase of the renovations at Osgoode Hall.

### • Annual Fees

The 1990 Fiscal Year was the second year for the Society's new fee classifications. The annual fees are set in the spring. For the upcoming year, with comparative 1990 amounts, the amounts are as follows:

General Fund	County Libraries	Ontario Legal Aid	Compensation Fund	Total 1990-91	Total 1989-90
\$ 678	\$ 62	\$ 185	\$ 26	\$ 951	\$ 894
II "66%" Fee 447	41	122	17	628	670
III "25%" Fee 170	16	46	7	238	224

The fee for the second category of membership was reduced from 75% of the full fee to 66% of the full fee. Over the next two years this category of fees will be reduced to 50% of the full fee. When the budget for 1990-91 was set this spring, the fee for the full-fee-paying members had to be increased by 6.4% to \$951. For reference purposes, the total fee for full-fee-paying members for the past four years has been:

1986/87	\$935.00
1987/88	\$918.00
1988/89	\$980.00
1989/90	\$894.00

Forecast membership figures for the upcoming 1990-91 fiscal year with actual figures to June 30, 1990 are:

	1990-91 (Forecast)	1989-90 (Actual)
Full Fee	18,925	18,055
66% Fee	1,945	1,838
25% Fee	630	554
Total Fee paying	<u>21,500</u>	<u>20,447</u>

#### • The Errors and Omissions Insurance Fund

On May 31, 1990 the society incorporated the Lawyers' Professional Indemnity Company as a wholly owned insurance company with capitalization of \$5,000,000. While members' insurance coverage remains unchanged, this arrangement allows direct access to underwriting markets and a stronger position in negotiating coverage.

The financial statements reflect the accounting for reserves in compliance with recognized insurance practices, a policy commenced by the Society in 1988. Total net reserves are \$61,439,517, up from \$54,102,383. Independent actuaries have evaluated and confirmed these reserves based on their actuarial study.

With respect to the Statement of Revenue and Expenses, income from levies increased by 23% and investment income by 33%. Because claims remained essentially unchanged this year over last, and

insurance premiums declined due to our new arrangement with Lloyds of London, the excess of revenues over expenses increased to \$8,221,896, leaving a balance in the fund of \$11,854,717. The capitalization of the insurance company referred to above was provided for out of this balance.

#### • Compensation Fund

The excess of revenue over expenses for the year is \$2,087,849 compared to \$4,627,996 at June 30, 1989, leaving a balance in the fund of \$29,800,935 at June 30, 1990. The reduction was due to the reduction in the levy from \$145 to \$52 for the full-fee-paying members.

The level of claims has continued to fall from a peak of \$25,958,000 in 1985 to the current level of \$7,941,685. If existing claim limits were applied, the Society's maximum exposure would be \$3,174,415. The Compensation Fund levy has been further reduced to \$27 for the 1990-91 fiscal year; however, further reductions were not thought possible given current economic trends.

#### • Summary

While the Society is aware that surpluses exist in each fund, it is felt prudent to budget for small surpluses each year in the General Fund, to allow for funding of special projects such as the new building addition.

In addition, an undesignated surplus of approximately \$2,800,000 is not excessive considering that the General Fund budget is in excess of \$27,000,000.

### DISCIPLINE COMMITTEE *Chair: P. S. A. Lamek, Q.C.*

#### STATISTICS

During the fiscal year a total of 133 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a Barrister and Solicitor.

A total of 50 reprimands were dealt with at Committee level and, in addition, Convocation dealt with 18 matters which resulted in the following dispositions:

Reprimands	10
Resignations	5
Suspensions	7
Disbarments	6

- **Special Committee on Discipline Procedures**

In October 1989, Convocation appointed a Special Committee of Benchers under the chairmanship of Roger D. Yachetti, Q.C. to look into the current discipline procedures and to recommend how these procedures could be improved.

***Terms of Reference***

The Committee shall review the *Law Society Act* and regulations insofar as they relate to discipline procedures and shall make such recommendations as are necessary to improve the discipline procedure in those areas set out below and in other areas identified by the Committee as needing amendment so as to provide a complete code of discipline procedure.

For the purpose of this review, the discipline process will not include the intake, evaluation and disposition of complaints prior to the point where, pursuant to s. 9 of Regulation 573, the Secretary exercises his discretion in referring or declining to refer the matter to the chair or vice-chair of the Discipline Committee. (A special committee is being constituted to review the intake, evaluation and disposition of complaints, including complaints review processes, prior to such point).

The Committee shall review and make recommendations for the improvement or clarification of the discipline procedure in the following areas:

- (a) In a matter that may require disciplinary action and that does not come through the complaints section, what process and which persons should be involved in the initiation of an investigation and the determination of whether the matter should be referred to another stage in the process? At present s. 9 of Regulation 573 would appear to make the Secretary the only person who can initiate an investigation and subsequently decide, in the Secretary's unfettered discretion, whether such a matter should be referred to another stage in the process. Should the chair of Discipline or anyone else have the authority to have the Secretary's work reviewed?
- (b) The process by which a report from the Secretary on a matter that may require disciplinary action is evaluated and a decision made on whether or not a formal discipline complaint should be filed. The present language of s. 9 of Regulation 573 refers to "the committee", which means the Discipline

Committee, which in turn currently includes all of the benchers; “the chairman”, which means the chair of the Discipline Committee but which in practice is the chair of the Discipline Committee (Policy); and “the vice-chairman”, which means the vice-chair of the Discipline Committee but which in practice is one of the two vice-chairs of the Discipline Committee (Policy). Should Convocation or the Treasurer or anyone else have the authority to review a decision of the chair or vice-chairs of Discipline?

- (c) The appropriate composition and designation of the panel that conducts the hearing of a formal discipline complaint. At present s. 9(2)(c) refers to “the Committee”, which means the Discipline Committee, etc., and s. 9(3) permits a quorum of three to hear a matter.
- (d) The appropriate role of the hearing panel in determining the findings of facts, in making conclusions of law and in recommending or setting the penalty, and conversely the appropriate role (if any) for the tribunal (if any) that hears the next stage of the process. At present there is some question about the right of Convocation (the Discipline Committee) to review and alter the findings of fact or conclusions of law made by the hearing panel. At present, if a three-person panel decides that a formal discipline complaint has not been established, it may dismiss the complaint. Alternatively, the panel may decide that the appropriate penalty is a reprimand before the panel. In either case the matter is not referred to Convocation. Is there a need for an appeal to Convocation or some other tribunal by counsel for the Law Society?
- (e) How and when should a complaint filed against a lawyer be made public? Should it be at the time the complaint is formally filed by the Secretary or at the hearing by the panel or at the hearing before Convocation?
- (f) What special procedures are required for *in camera* hearings?
- (g) If Convocation remains the final tribunal within the Law Society, what rules should govern a quorum and should it be possible for two or more panels of Convocation to be sitting simultaneously? Bill 45 currently before the Legislature will reduce the quorum requirements in Convocation for all purposes to ten persons. If more than ten benchers hear the initial part of a discipline matter, should there be any rule governing

how many of the initial group hear the subsequent part, so long as there are at least ten present?

- (h) Section 44 of the *Law Society Act* grants a right of appeal to the Divisional Court to "any person" dissatisfied with a decision of Convocation made under certain enumerated sections of the *Law Society Act*. Is this right of appeal too broadly stated?
- (i) The appropriate treatment of cases where a member may be incapable of carrying on a practice because of physical or mental health problems, including addiction to drugs and alcohol. At present s. 35 of the Act treats these cases as discipline cases. Should there be a distinct review process that is not set up as part of the discipline process? Should there be power to compel a member to undergo a medical examination by a doctor appointed by the Law Society?

This Committee has met 12 times since it was struck, and while its work is still ongoing, it has brought before Convocation several interim resolutions and recommendations. It is expected that the full report of this Committee will be presented to Convocation in the fall of 1990.

## COMPLAINTS

### • Special Committee on Complaints Procedures

Convocation created this Committee in October 1989 to explore ways of making the process responsive to a wider range of complaints.

#### *Terms of Reference*

The Committee shall examine the process by which complaints are received, evaluated and reviewed by the Law Society and make recommendations on how the process may be improved. While charged with the responsibility to examine all aspects of the complaints process, the Committee will specifically consider the following:

- (a) The intake process, to determine whether more assistance to complainants would result in a clearer statement of the complaint, thereby facilitating an earlier disposition of the complaint and an earlier redirecting of matters that are not properly before the Law Society.

- (b) Decentralizing the complaint review process so that the cost and inconvenience to the complainant of attending in Toronto can be avoided or substantially reduced.
- (c) Limitations or weaknesses in the complaints process that can result in the frustration of the complainants or which are counter-productive to the goals of public service and governance of the profession that are intended to be served by the complaints process.
- (d) Improved communications with the profession to make it more aware of the types of inadequate service that are giving rise to complaints.
- (e) Alternative complaint resolution procedures that can efficiently and effectively deal with complaints involving shoddy work or negligence where the amount of money involved does not warrant litigation to settle the matter.

As part of its report, the Committee is asked to develop a concise statement of goals and objectives of the complaints process that may be used to inform the public about their rights and members of the profession about their responsibilities.

To date, the Special Committee has presented two reports to Convocation and, after some amendments the recommendations contained in them were approved.

### *First Report*

In its first report, the Committee established seven general objectives for the Complaints Department:

1. The Complaints Department's process should be readily accessible to the public.
2. The public should be satisfied that the complaints procedure is fair.
3. Lawyers should be satisfied that the complaints procedure is fair.
4. The process should involve no avoidable delay.
5. The Complaints Department should expand its mandate beyond its traditional investigative function to encompass mediation and resolution-oriented activities.
6. The Complaints Department must have means to address complaints which involve minor professional misconduct, minor amounts of money lost through negligence, and other

types of deficient service which fall under the general heading of Unsatisfactory Professional Practice.

7. The complaints process, in its entirety, should be evaluated by an independent body at regular intervals of three to five years to determine the following:
  - (i) its efficiency, effectiveness, and credibility with the public and the profession;
  - (ii) patterns of complaints which might require analysis and remedy.

The Committee made the following recommendations in the first report:

- (a) that a province-wide toll-free number be installed,
- (b) that attempts be made to resolve minor complaints by telephone,
- (c) that a service be established to assist complainants who would otherwise be unable to properly articulate their complaint in either official language,
- (d) that a program be launched to educate public and profession about changes to the complaints process,
- (e) that improvements be made to existing computer programs to enable staff to compile statistical data of increased subtlety and sophistication.

### *Second Report*

The Committee's second report sets out a strategy for dealing with complaints alleging minor misconduct or unsatisfactory professional practice. Within this category are complaints that are often justified but not sufficiently serious to warrant formal discipline proceedings. The Committee's recommendations in this report were aimed at establishing a procedure for mediating a resolution where possible and to provide for a means of concluding ongoing disputes short of a formal discipline hearing. Convocation approved the following recommendations:

- (a) that the Society describe this lesser category of misconduct as "unsatisfactory professional practice",
- (b) that Rule 2 of the Professional Conduct Handbook, which deals with competence and quality of service, be amended to incorporate the appropriate references to unsatisfactory professional practice,

- (c) that Complaints Department staff have authority to suggest a range of remedies to lawyers and complainants in an attempt to resolve complaints,
- (d) that an office of Complaints Resolution Commissioner be created in order to review cases where complaints cannot be resolved and to make decisions which can bind the parties,
- (e) that the Complaints process be kept separate from the activities of the Professional Standards Committee,
- (f) that the existing function of Lay Benchers as Complaints Review Commissioners be continued and that this process be regionalized.

It is recognized that, before the recommendations are implemented, it will be necessary for new and existing staff to upgrade their conciliation skills and for more detailed codes of procedure to be developed. Some proposals will also require amendments to the *Law Society Act* before they can be fully implemented.

#### • Other Developments

Approximately 2,000 complaint files have been opened so far in 1990. This figure would suggest that the number of complaints received per year is levelling off after several years of sharp increases.

The volume of complaints handled by the Department has resulted in the hiring of additional staff and their reorganization into "teams" consisting of one lawyer, one law clerk and two secretaries. This format had previously been implemented on a pilot basis and was found to enhance the ability of staff to deal with heavy case loads. It is also anticipated that this approach can readily be adapted to the new procedures recommended by the Special Committee.

Our computer records suggest that delays in the completion of legal work and a lawyer's failure to communicate are the most common complaints. Other areas of concern include fees disputes, failure to honour financial obligations relating to practice, failure to honour undertakings and difficulties arising from termination of a lawyer's retainer.

Complaints in the area of real estate law comprise approximately one third of all complaints received. Another one third stem from civil litigation and matrimonial law. The balance are distributed over areas such as wills and estates, criminal law, administrative law, and corporate and commercial law.

**LEGAL AID COMMITTEE***Chair: T. G. Bastedo***• Budget**

Actual 1988-89	\$142,508,500
Actual 1989-90	174,057,300
Projected 1990-91*	208,292,800
Per capita 1989-90	\$ 18.13

\*Based on a population estimate of 9,598,600

**• Mission Statement**

The fundamental principle of the Ontario Legal Aid Plan is to facilitate equality of access to justice through the provision of effective and efficient legal services in a wide range of legal matters to those who are unable to finance these services from their own resources. This fundamental principle can be looked at according to various detailed objectives.

The Plan should facilitate access to services. Services should be accessible to all those who are eligible. Accessibility includes making services available in locations which can be reached by potential clients during reasonable hours as well as making persons who would be eligible for legal aid aware of the services. The Plan should provide service in a consistent manner throughout the province so there are no disparities on a regional or other basis.

The eligibility determination process should be fair, flexible and expeditious. Standards should be set and periodically reviewed to ensure that those who need services receive them. Those who cannot afford to finance legal services on their own and who have a serious legal problem should be eligible for legal aid.

The quality of services available should be of a standard commensurate with the quality of legal services available if the client were able to pay for the services himself or herself.

The Plan should strive to meet the standards set out in the *French Language Services Act*.

The Plan should be aware of and responsible to the needs of groups with special needs or interests, including, but not limited to, ethnic, racial, and linguistic minorities, women, persons charged under the *Young Offenders Act*, the disabled, involuntary psychiatric patients, native people, inmates, and persons in remote areas. This responsibility includes the mandate of legal aid clinics to provide public legal

education. The Plan should be dynamic and willing to develop new approaches and initiatives as needs and communities change.

The administration of the Plan and the delivery of services should be carried out in an efficient manner.

The Plan should strive to provide services which are appropriate to client needs and which result in the best possible effect for the client.

The fullest possible participation of the Bar in the Legal Aid Plan should be encouraged.

Independent community legal clinics are funded to provide legal services or paralegal services, or both, including activities reasonably designed to encourage access to such services or to further such services, and services designed solely to promote the legal welfare of a community on a basis other than fee-for-service.

#### • Tariff

Hourly Rate	<u>\$67</u>	<u>\$75</u>	<u>\$84*</u>
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\*Depending on experience level

#### *Some Examples:*

Guilty plea break and enter

-if fewer than 5 hours preparation	<u>\$442</u>	<u>\$497</u>	<u>\$550*</u>
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-if 5 or more hours preparation	<u>\$736</u>	<u>\$828</u>	<u>\$930*</u>
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Robbery 1/2-day prelim. hearing

<u>\$250</u>	<u>\$281</u>	<u>\$312*</u>
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Robbery full-day trial

<u>\$500</u>	<u>\$562</u>	<u>\$625*</u>
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Uncontested divorce by affidavit

<u>\$500</u>	<u>\$562</u>	<u>\$625*</u>
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\*Depending on experience level

#### • Clients

Number of legal aid certificates issued	132,439
Number of files opened in clinics	16,474
Number of people assisted by duty counsel	318,600
Number of people assisted by informal advice and referrals	275,592

#### • Administration

Number of administrative staff in provincial and area offices	534
Number of clinic funding staff	10
Number of clinic support staff	137
Number of community legal workers	117

• **Staff Lawyers**

Number of lawyers in provincial and area offices	72
Number of part-time area directors	39
Number of clinic lawyers	162
Salary range for lawyers	<u>\$38,000 – \$105,000</u>
Salary range for CLWs	<u>\$29,000 – \$ 43,000</u>

• **Financial Eligibility Guidelines**

The Financial Eligibility Guidelines are flexible and complex. Discretion is exercised by both Area Directors and Clinic staff.

• **Limits On Range Of Service Coverage**

Legal Aid Certificates should not be issued to commence proceedings wholly or partly in respect of a defamation or in proceedings relating to an election.

The mandate of clinics is poverty law. Clinics do not provide services in areas where other resources are available or where Legal Aid Certificates issue.

• **Refugees**

The Plan has experienced a tremendous increase in the number of immigration matters handled over the past year. Refugee cases account for the major part of that increase.

Panels of immigration lawyers in 11 area offices corresponding to border points in Ontario continue to be appointed by the Plan to represent refugee claimants at border inquiries and on any necessary applications for judicial review before the federal court of appeal. The cost of those legal services is passed along to the federal government pursuant to s. 30 of the amended *Immigration Act* and to an agreement between the federal government, the provincial government and the Ontario Legal Aid Plan.

In the fiscal year 1989–90, approximately 8,500 immigration cases were completed on legal aid certificates, compared with approximately 1,600 completed cases the previous fiscal year.

In the first six months of this calendar year the Metropolitan Toronto Legal Aid Office appointed counsel in respect of 3,353 refugee files, representing 4,547 refugee claimants, a four-fold increase over the corresponding period in 1989. A panel of 209 lawyers,

administered by the Toronto office, has had no difficulty meeting the increased demand for representation.

The Plan held a mandatory seminar for immigration panel lawyers in Toronto in April 1990 with the participation of the immigration Bar, the Immigration and Refugee Board, the United Nations High Commissioner for Refugees, and the Department of Justice.

#### • **Clinic Expansion**

Three new clinics were opened, and continued expansion to 70 clinics in 1990-91 has been approved.

#### • **Salary Increases**

In recognition that the salary structure for lawyers was inadequate, the Plan increased salaries by approximately 28% in July.

#### • **Staff Duty Counsel**

The Plan conducted a study to determine whether its staff duty counsel program which has provided services in Toronto since 1979 should be expanded to other centres within the province. The study demonstrated that the system would be cost-effective in two other centres. The Bars in the two communities have been given an opportunity to analyze their own systems in order to determine whether they might be able to reduce the costs without reducing the quality of the service.

The Plan did expand the salaried system to one other area of the province because the local Bar was unable to deliver the services required. The local Bar is small and very busy in a community which requires extensive duty counsel services.

#### • **Staff Delivery of Family Law Services**

The Plan is conducting a study to determine whether salaried lawyers should deliver some legal aid family law services in Toronto. The Plan is concerned that many legally aided women in Toronto may have difficulty retaining the services of competent counsel.

#### • **Nishnawbe-Aski Legal Services Corporation**

The Plan's new program for the delivery of legal aid services in the remote north, administered in conjunction with the people of the Nishnawbe-Aski nation, commenced operations in January.

### • Federal Agreements

A Federal Access to Legal Information Fund Agreement was signed designating the Clinic Funding Committee as a non-governmental recipient for 1989-90 and 1990-91. The funds will be used to:

- (a) Expand Community Legal Education Ontario to provide a resource centre/clearing house for Ontario.
- (b) To establish special public legal education programs for northern Ontario native communities.
- (c) To increase clinic public legal education projects.

The Department of Justice Legal Aid Special Projects Fund contributed \$70,000 towards the establishment of the Nishnawbe-Aski Legal Services Corporation.

### CLINIC FUNDING COMMITTEE

*Chair: P. M. Epstein, Q.C.*

### • Independent Community Legal Clinics

Under the Clinic Funding Regulation, the Committee is responsible for funding and policy affecting community clinics. In accordance with the Regulation, and the clinic certificate signed on behalf of the Plan and by each clinic, community clinics are administered by locally elected boards of directors representative of the community the clinic serves. The boards must establish financial eligibility guidelines and case priorities for the work of the clinic, and are financially accountable to the Clinic Funding Committee. In 1989-90, the many hours of volunteer time board members devoted to clinic work contributed significantly to the success of the community legal clinic system which plays an increasingly important role in the Ontario Legal Aid Plan.

The funds allocated for clinic funding increased to \$22.1 million in 1989-90.

Since 1976, when 13 existing clinics were first funded by the Ontario Legal Aid Plan, the number of clinics has grown to 67 across the entire province. Three new clinics will be opened in 1990-91.

Clinic legal services continue to be provided by both lawyers and community legal workers. A number of clinics provide a wide range of general legal assistance and representation in such administrative law areas as workers' compensation, unemployment insurance, wel-

fare, pensions, immigration and employment rights; clinics also assist with landlord/tenant disputes, and debtor/creditor problems. The Clinic Funding Committee has also continued funding clinics that offer specialized legal services, in matters such as parole and sentencing (Queen's Correctional Law Project), environmental law (Canadian Environmental Law Association), law for the handicapped (Advocacy Resource Centre for the Handicapped), children's law (Justice for Children), seniors' law (Advocacy Centre for the Elderly), workers' compensation (Injured Workers' Consultants and Industrial Accident Victims Group of Ontario), landlord/tenant problems (Metro Tenants Legal Services and Landlords' Self-Help Centre) and public legal education (Community Legal Education Ontario).

As well, a number of clinics provide services to special communities, such as the Spanish- and Chinese-speaking populations of Toronto, and native communities in Kenora, Sioux Lookout, Thunder Bay District, Moosonee/Moose Factory and the James Bay coast, Manitoulin Island, and Rainy River.

In addition to case-related services, clinics continue to fulfil their special mandate under the Regulation "to encourage access" to legal services and to provide services "designed to promote the legal welfare" of their communities. Many clinics initiated community legal education and preventive law activities during the fiscal year, assisted with significant law reform proposals, and engaged in widespread efforts to create better access to the legal aid system and legal services. The Committee also allocated special funds to clinics for legal education and outreach projects, such as public forums, posters and "how-to" booklets, many of which were designed to improve access to legal services.

#### • Community Legal Clinics – 1989 Statistics

Files Open	16,474
Summary Advice	102,762
Referrals to:	
private bar	15,179
OLAP	3,207
other	<u>44,854</u> <u>3,240</u> <u>182,476</u>
Public legal education sessions	3,380
Legal education publications	238
Briefs/submissions to public bodies	284

The Committee continued to provide funding for personal computer equipment in all clinics and for the training of staff employed by

clinics. Four clinic lawyers were able to attend the Intensive Trial Advocacy Workshop sponsored by Osgoode Hall Law School at York University. The Committee funded the Annual Lawyers' Institute in 1989, at which clinic lawyers and some community legal workers province-wide were brought together for three days of substantive training. The Committee also provided funding to regional clinic associations organizing regular training workshops and work/study groups to meet the needs of legal staff in their respective parts of the province.

The Committee continued its policy of direct consultation with clinics in meetings with clinic representatives of each region.

The two branches of the Ontario Legal Aid Plan – the traditional fee-for-service program and independent community legal clinics – continued to work together to ensure that necessary legal services are readily available to low-income citizens of the province.

#### **PROFESSIONAL CONDUCT COMMITTEE**

*Chair during 1989 to February 1990 A. B. Doran, Q.C., then  
R. J. Carter, Q.C.*

##### **• Retired Judges Returning to Practice**

The Committee has been studying the question of retired judges returning to practise in the courts. There is an existing Rule that prohibits a retired federally appointed judge from practising in the courts without permission of Convocation. The Rule (Rule 15) does not apply to provincially appointed judges. The Committee will be bringing forward a recommendation as to whether the Rule should be changed this fall.

##### **• Publication of Opinions of the Professional Conduct Committee**

The Committee had hoped to have its opinions spanning a 25-year period available for publication this summer. Because the Committee is reconsidering some of its earlier opinions, the publication is being held in abeyance. It is hoped that the opinions will be ready in January.

#### **COUNTY AND DISTRICT LIAISON COMMITTEE**

*Chair: Marc J. Somerville, Q.C.*

The committee continued in 1989–90 to ensure that the County and District Law Associations through their Executive are kept aware of the issues under consideration by the Society. The committee also functions as a vehicle for the County and District Law Associations

to bring their concerns to the attention of the Benchers. In this way each group has the benefit of regular informal exchanges with the other on matters of mutual concern as well as the opportunity to seek or provide input on a variety of topics.

In addition to their involvement with this Committee, representatives of the County and District Law Associations have participated in the work of some of the Special and Standing Committees of the Society.

#### UNAUTHORIZED PRACTICE COMMITTEE

*Chair: C. C. Ruby*

Ontario is still awaiting the report of the Attorney General's Task Force on Paralegals which is expected to be released before the fall of this year. A discussion paper released by the Task Force suggested that paralegals should be allowed to continue to practise within the narrow confines determined by the Ontario Court of Appeal decision in *Lawrie and Pointts*. The discussion paper also suggests that other areas of law should perhaps be opened up to paralegals, but only after a minimum standard of education is determined and a system of regulation is imposed. No particulars have yet been given by the Task Force as to what the educational or regulatory requirements will be.

In the meantime, the Law Society of Upper Canada continues to prosecute those non-lawyers who practise in the prohibited areas of divorce, family, estate and business law and has been successful in every instance.

#### PUBLIC INFORMATION COMMITTEE

*Chair during 1989 to March 1990 Ian W. Outerbridge, Q.C., then  
Jeffery S. Lyons, Q.C.*

##### • Dial-A-Law

The Dial-A-Law system handled 162,491 calls (an average of 1,067 calls per day) from January 1 to May 31, 1990. This is an increase of 937 calls from the same period last year.

In April of this year the Society inaugurated its new French Language Dial-A-Law program – “Téléphone juridique”. Ontario residents are now offered free general legal information on a wide variety of legal topics using brief, tape-recorded messages in the English and French languages.

Work is continuing on the Portuguese and Cantonese Dial-A-Law systems. It is expected the top 30 topics will be available by year end.

Four additional telephone lines have been added to the Dial-A-Law system with the implementation of the Ottawa satellite system. Ottawa residents are now able to access the Dial-A-Law system through local lines (233-5941).

The Society is conducting a "listenability" review of the Dial-A-Law tapes. This review will ensure that the taped messages are understood by our target group. The review will be completed by the end of the year.

#### • Lawyer Referral Service

For the period January 1 to May 31, 1990 calls to the Lawyer Referral Service totalled 61,321, an increase of 10,298 or 20% from the same period last year. The service receives an average of 620 calls each day.

As a result of the steady increase in calls, two additional operators were hired, bringing the total number of Lawyer Referral operators to seven. A local telephone line was also added.

#### • Other Programs

The Law Society and Legal Aid booth was set up at several home shows and exhibitions across the province. Local lawyers staffed the booth and fielded questions from the public about their rights and obligations under the law.

Thousands of the Society's information brochures were distributed throughout the province through libraries, community legal clinics and other organizations.

The Public Information Department plans to distribute three new information brochures by the end of the year. Legal fees, the Society's complaints process and a general information booklet providing an overview of the Society and the programs it offers are the subjects of the brochures.

### LEGISLATION AND RULES COMMITTEE

*Chair: C. Bruce Noble, Q.C.*

The Legislation and Rules Committee reports that the following legislative amendments were passed by the Legislature of Ontario and given Royal Assent on June 28, 1990:

#### A. The Law Society Act

1. (a) An amendment by adding s. 5(4) to permit the Society to own shares or hold a membership interest in an insurance

corporation incorporated for the purpose of providing professional liability insurance to members and to persons qualified to practise law outside Ontario in Canada. This amendment permits the Law Society to operate its own professional liability insurance company.

- (b) Amendments to s. 12(12)(1) which provide that the voting rights of former Attorneys General for Ontario are restricted to voting in committees that are not considering disciplinary matters. Prior to this amendment, they were entitled to vote in Convocation and in all committees. Other life Benchers are given the right to vote in committees, but only on non-disciplinary matters. Benchers who are *ex officio* Benchers by virtue of having held the office of Treasurer still retain full voting rights under s. 14(1).
- (c) An amendment to s. 24 providing that ten Benchers present and entitled to vote in Convocation constitute a quorum for the transaction of business. The quorum for all matters before Convocation is now ten Benchers. Prior to this amendment, the quorum for discipline matters was fifteen.
- (d) Section 30 of the Act is re-enacted to make clear that the membership of a member or student member who resigns is cancelled. As a result, s. 46 of the Act will apply and reinstatement applications for members who resign will be handled in the same way as for members whose memberships are cancelled for cause.
- (e) Section 31 of the Act is re-enacted for the following purposes:
  1. To provide that the membership of any person who is appointed as a judge of any court in Canada is in abeyance while the person is a judge. Prior to this amendment, judges of the provincial courts of other provinces and judges of the territorial courts, had been able to continue as members.
  2. To provide that membership of any person appointed to the Ontario Municipal Board, or other tribunal approved by Convocation under the regulations, is in abeyance while the person is a member of the Board or tribunal. No regulation can be made under this

amendment until s. 12(2a) of S.O. 1990, c. 8 is proclaimed in force by the Lieutenant Governor.

3. To delete obsolete references to certain judicial offices.
4. To authorize Convocation to refuse to restore the membership of a judge who is removed, or who resigns from office because of discreditable conduct.
- (f) Section 49 is amended (in force September 1, 1990) by "changing Registrar of the Supreme Court" to "local registrar of the Ontario Court (General Division) at Toronto".
- (g) Section 50 is amended to provide that the maximum penalty for the unauthorized practice of law is increased from \$1,000 to \$10,000 and a two-year limitation period is introduced in respect of prosecutions.
- (h) Amendments to the Act, to provide for the incorporation of law practices will not come into force until proclaimed. The amendments adding new ss. 61a to 61.l provide for the protection of the solicitor-client privilege where the practice of law is carried on by a law corporation. The amendments also provide for the imposition of personal liability on shareholders of a law corporation and provisions for discipline by Convocation if a law corporation fails to comply with the Act.
- (i) An amendment to s. 62 of the Act authorizing Convocation to make rules prescribing the rate of interest to be paid on money owed to it by members and law corporations.

## **B. The Solicitors Act**

1. Section 37 is amended (in force June 28, 1990) providing for counsel fees to be awarded to a party in proceedings where the party is represented by a lawyer who is a salaried employee of the party.

The Legislation and Rules Committee drafted the following:

## **C. Regulations Under The Law Society Act**

1. An amendment concerning the Bar Admission Reform covering students who enter the course before May 1, 1990 and students who enter the course after May 1, 1990.

2. An amendment to the Regulations to require a refresher Bar Admission course where three years have elapsed after a person has successfully completed the Bar Admission course but the person has not been called to the Bar and enrolled as a solicitor.

#### **D. Rules Under The Law Society Act**

1. An amendment to the Rules changing the quorum, from 100 to 50 members in good standing, for an Annual Meeting of the Society.
2. Amendments to the Rules establishing the Certification Board and French Language Services Committees as Standing Committees of Convocation.

#### **INSURANCE COMMITTEE** *Chair: P. G. Furlong, Q.C.*

In April 1990 Mr. Victor Smith, the Law Society's Director of Insurance, retired to return to the U.K. Under his direction, the Mandatory Errors and Omissions Program has progressed successfully to the benefit of the Society and its members. In addition to developing a solid professional staff of claims examiners, Mr. Smith played an important role in the development of the Law Society's insurance company.

Prior to Mr. Smith's departure, the Society welcomed the arrival of the current Director of Insurance, Mr. Lin Whitman, who brings with him a wealth of knowledge and experience gained by his lengthy career in the insurance industry in Canada.

As of July 1, 1990, the *Lawyers' Professional Indemnity Company* commenced operations as the primary Insurer for the Law Society's Mandatory Errors and Omissions Program. This insurance entity is owned by the Law Society, and is licensed to write lawyers' professional liability insurance.

Having achieved the goal of providing its members with a sound professional liability insurance program on a cost-effective basis, the Society, in creating this insurance company, looks to the future with the following primary objectives:

1. To bring a measure of stability to the cost of professional liability insurance over the long term.
2. To gain secure access to the professional reinsurance markets.

3. To provide coverage that may not be commercially available, and to exercise greater control over policy terms and conditions.

Over the past three years, the Errors and Omissions Department has received notice of more than 6,500 claims. Approximately 2,200 fall within the policy period ending June 30, 1990, and a further 2,600 new claims are anticipated over the next 12 months. Though the number of claims has consistently risen annually, and notwithstanding the erosive impact of inflation, the average claim value has increased less than 6% in total over the last five years. Notwithstanding the annual increase in the frequency of new claims, and the additional claims costs associated with such an increase, members of the Law Society continue to benefit from highly competitive insurance rates; a result quite reflective of the Society's active participation in the management of the Errors and Omissions program.

The success of the Law Society's Mandatory Errors and Omissions program is, in part, the result of a concerted effort to develop a program that is responsive to the needs of its members. With the demands of today's complex and sophisticated society, the need for loss prevention has never been greater. To complement the variety of seminars and material available through The Law Society providing assistance and guidelines on loss prevention, the Errors and Omissions Department is in the process of completing a publication devoted entirely to this subject which will be available to all members shortly.

Under the existing program, a member attending another province to provide legal advice or services on behalf of a client is not covered by the Ontario Errors and Omissions Program unless that member is acting as a lawyer and member of the Law Society of Upper Canada. For members who have an interjurisdictional practice, additional coverage would have to be secured to cover a member while acting in other jurisdictions. In response to the development of interjurisdictional practice, the Law Society has embarked on a program which will address the feasibility and advisability of providing professional liability insurance for interprovincial practice.

#### COMPENSATION FUND COMMITTEE

*Chair: Roger D. Yachetti, Q.C.*

During the 12 months from July 1, 1989 to June 30, 1990, the amount in the Compensation Fund increased from \$27,713,086 to \$29,800,935. The outstanding claims still to be processed at June 30, 1990 amounted to \$7,941,685.

The Compensation Fund levy for the fiscal year 1990-91 was reduced by Convocation from \$52 to \$26 for the full-fee-paying member. Substantial interest was earned on the investments of the Fund and the \$26 levy will be sufficient to meet the Fund's estimated expenses in the next fiscal year.

A major policy change was the increase in the per-claimant limit to \$100,000 from \$60,000 effective May 25, 1990. The Committee retained a firm of actuaries to report on the estimated increase in grants in the fiscal year 1990-91 if the per claimant limit was increased to \$100,000. After analyzing the claims experience of the Fund for the last 15 fiscal years, the firm estimated that the Fund would pay \$300,000 more than if the limit was \$60,000 for each claimant.

In May 1990, a significant Compensation Fund case was decided by the Supreme Court of Canada in the matter of *R. v. Fitzgibbon; The Law Society of Upper Canada, Intervener*, [1990] 1 S.C.R. 1005. The Court held that the Law Society was "a person aggrieved" within the meaning of s. 653 (now s. 725) of the *Criminal Code* and, as such, could seek a compensation order at the time of sentencing of a member or former member where the Law Society's Compensation Fund had paid monies out to victims of the convicted member or former member. The Court also held that although it was not necessary to obtain the consent of the bankruptcy court before an order was made under s. 653, leave of the bankruptcy court must be obtained if the Law Society were to seek to register the order with a Superior Court of a province.

The Compensation Fund is arranging to supply its forms in both of Canada's official languages and will be adding a Referee fluent in both of Canada's official languages to hear claims.

**PROFESSIONAL STANDARDS COMMITTEE**  
*Chair: J. S. Lyons, Q.C.*

The Professional Standards Committee was established as a result of a recognition that standards of competency as applied to both the profession generally and individual lawyers required increased attention from the Law Society.

The Committee has embarked on a number of initiatives in an effort to improve overall standards of competency. One such initiative has been the establishment of sub-committees entrusted with the task of formulating general competency guidelines for lawyers practising in different areas of law. The sub-committees are composed of Law Society Benchers and experienced counsel drawn from private prac-

tice throughout the province. To date, criminal law guidelines have been finalized and distributed, and significant progress has been made in the development of guidelines for practitioners in the areas of wills and estates, family law, real estate law, and civil litigation.

The Committee is also responsible for the development of programs designed to assist individual lawyers who have demonstrated an inability to deliver competent legal services to their clients. The major initiative in this regard has been the Practice Review Program which is a form of voluntary peer review whereby lawyers with identified deficiencies are matched with lawyers with similar practice backgrounds. The objective is for the reviewer to identify the deficiencies which underlie the lawyer's problems and to propose a remedial program to be monitored by the Law Society. Referrals for the Program are generally received through the various departments of the Law Society which come into regular contact with the profession (i.e., Complaints, Errors and Omissions, and Audit).

As part of the reform process being spearheaded by the various special committees presently sitting, the Standards Committee considered whether changes to the Practice Review Program might better help fulfil its mandate. In that regard, the Committee recently approved in principle changes to the program which would make practice reviews mandatory, would give Standards Panels the authority to make orders aimed at addressing a member's competency problems and would allow for the participation of non-Bencher lawyers on panels.

These proposals will require amendments to the *Law Society Act* before they can be fully implemented.

The Committee is also responsible for overseeing the Society's participation in the LINK Lawyer's Assistance Program. This joint initiative has been in operation since February 1990 and provides counselling and referrals to lawyers experiencing difficulties with stress, substance abuse and other related problems. Available statistics would indicate that this program is gaining widespread acceptance.

#### RESEARCH AND PLANNING COMMITTEE

*Chair: J. M. Spence, Q.C.*

During the year, the final steps were taken to establish LINK, the Lawyer's Assistance Program. This project had been developed by the Committee during the previous year. It is a program which provides counselling and referrals for lawyers experiencing difficulties with stress, substance abuse and related problems.

In August 1989, the Standing Subcommittee on Women in the Legal Profession published a report by Fiona M. Kay entitled *Women in the Legal Profession*. This 170-page study examined the status of women in the legal profession in Ontario. It was intended to provide a comprehensive overview of women's status and fields of specialization within the legal profession. The study was based on law society membership records over the period 1976–1988. An executive summary of the Report was sent to all committees of Convocation with the request that they consider the issues raised.

Later in the year, the Standing Subcommittee on Women in the Legal Profession designed a questionnaire entitled "Survey of Transitions in the Ontario Legal Profession". It was mailed to 2,358 members of the Law Society in April 1990. A second mailing was sent in June to those from whom no reply had been received. At the time of writing this report, 67% of those to whom the survey had been sent had responded. Responses are anonymous and confidential. The questionnaire covers education and professional training; professional work history; the respondent's current position; professional duties; responsibilities and working conditions; household and family history. It is hoped that a report, based on an analysis of the responses, will be available early in 1991.

The Standing Subcommittee on Women in the Legal Profession decided, at the end of the year, to develop a policy statement on the problem of sexual harassment. The intention is to develop a staff policy for the Law Society and guidelines for the profession as a whole.

At the recommendation of the Committee, the Law Society adopted a policy on gender-neutral communications for its staff. A copy of the policy was subsequently sent to members of the profession, with the recommendation that they consider following the principles in their own communications.

The Benchers' Responsibilities Subcommittee conducted a survey of Benchers to ascertain the amount of time they spend on different aspects of Law Society business in a typical month. At the time of writing this report, the results of the survey were still being analyzed.

The Voluntary *Pro Bono* Subcommittee launched a feasibility study to determine the extent of the need for formal co-ordination of *pro bono* legal services in the province. The study is being continued into the new year.

The Alternative Dispute Resolution Subcommittee continued to study the role of the Law Society in the development of ADR practice.

Towards the end of the year, the Committee reviewed the first 12 months' experience under the policy which provides that the proceedings of Convocation are to be open to the profession and the public.

A number of practical proposals were prepared for presentation to Convocation. The intention is to make it easier for members of the profession and public to attend those parts of the proceedings in which they are particularly interested.

#### **CERTIFICATION BOARD**

*Chair: Allan M. Rock, Q.C.*

The Certification Board and existing Specialty Committees are reviewing applications for certification of Specialists in Civil Litigation, Criminal Litigation, the combined specialty of Civil and Criminal Litigation, and Family Law.

Approximately 550 lawyers in Ontario are presently certified as Specialists.

The Intellectual Property Law Specialty Committee held its first meeting on May 23, 1990. Three sub-committees were formed to draft definitions and standards for certification in the following fields: Patents, Trade-marks, and Copyright.

The manner by which a Specialist may identify the Specialist designation in any written material, including letterhead and professional cards, has been restricted to: "Certified by the Law Society as a Specialist in [area of law]."

The Board has now adopted the following policy pertaining to advertising the Specialist designation:

When using the designation outside Ontario, or in cases where there is any possibility that the designation, without identifying the certifying body, may be misleading, the more complete wording "Certified by the Law Society of Upper Canada as a Specialist in [area of law]" is required.

The Board has recommended that the following French-language versions of the manner by which certified Specialists may presently identify themselves ("Certified by the Law Society (of Upper Canada) as a Specialist in [area of law]") be adopted:

Accrédité(e) par la Société du barreau du Haut-Canada à titre de spécialiste . . .

either	en litige civil
or	en litige criminel
or	en litige civil et criminel
or	dans le droit de la famille

The Board has recommended that a French-language component of the Certification Program should be implemented in due course, whereby all Certification Program materials, including application forms, will be available to members in both French and English, where an applicant may choose to communicate with the office and be interviewed in the French language, and where the successful applicant may choose to receive a French-language certificate.

The process of interviewing applicants for certification is taking on increasing significance, particularly since the Board's decision late last year that all applicants be interviewed as a general rule. The Certification Board is anxious to ensure that, to the extent possible, interviews are conducted on a uniform basis and that the results of the interviews are communicated to the relevant Specialty Committee in a comprehensive and effective way.

With all of that in mind, the Board presented a four-hour workshop on Saturday, June 9, 1990 at which materials were distributed, presentations were delivered, and mock interviews were conducted for the purpose of establishing standard procedures and approaches during interviews.

Because of the very significant number of Specialists who expressed an interest in attending the workshop, the Board has decided to conduct a number of such programs, both in Toronto and around the province, during the coming months.

The entire workshop, including one of the mock interview sessions, was videotaped. Portions of the master tape have been used to produce a training tape, which is to be used at subsequent workshops and as a standard educational tool for the Certification Program.

#### **FRENCH LANGUAGE SERVICES**

*Chair: C. D. McKinnon, Q.C.*

The French Language Services Program was officially launched on February 2, 1990 with the hiring of a French Language Services Co-ordinator. The Report of the Special Committee on French Language Services outlining its implementation plan was submitted to Convocation on March 16, 1990 and was approved. Following up on the policy adopted by Convocation in June 1989, this three-year plan addresses the issues and most pressing needs in the area of French

communications, as well as the financial parameters necessary to meet set objectives. The implementation plan will be revised in September, 1990 to reflect current needs and objectives.

Funding for the French Language Services Program was secured from the Law Foundation of Ontario, and discussions are underway with the Ministry of the Attorney General and the Department of the Secretary of State.

The Bar Admission Program was identified as the first priority and several courses and other training material have been or are in the process of being translated into French. Summaries of Proceedings of Convocation are being translated and will be published in both French and English in the Ontario Reports. Several documents in the areas of Complaints, Library, Public Information, Archives and Compensation Fund are in the process of being distributed in French.

The activity that received the most attention over the past three months is undoubtedly the launch of the "Téléphone juridique" (Dial-A-Law) in Ottawa this past April 25. This legal information service is available free of charge to all Francophones in Ontario.

The success of this program in French is already assured, since the response from the public and the media has been overwhelming.

Bilingual positions have been identified and are being filled as circumstances and budgets permit.

#### **SPECIAL COMMITTEE ON BENCHERS' ELECTIONS**

*Chair: R. G. Ferguson, Q.C.*

The Special Committee on Benchers' Elections was established to review the manner in which Benchers are elected. The primary aim of the Committee is to strengthen the degree of legitimacy of the electoral process within the profession. Some of the issues raised in Committee discussions include regional representation, sectional representation, an increase in the number of Benchers and a reduction in the length of the term. The Committee has also considered the workload placed on Benchers, as this has some effect on the number of Benchers necessary to meet the demands of governing the legal profession.

It is important to note that some of these issues are also being considered by the Subcommittee on Benchers' Responsibilities. The Special Committee on Benchers' Elections has received over 300 submissions from members of the profession. A compilation of sug-

gestions made therein will be completed in the near future. The Special Committee expects to have its report tabled in Convocation this fall.

### **LIBRARIES AND REPORTING**

*Chair: Daniel J. Murphy, Q.C.*

Several events relating to the *Ontario Reports*, Great Library, and the County Law Association Libraries highlight the year's work for the Committee.

#### **• Ontario Reports**

The Law Society signed a new five-year agreement with Butterworths Canada Ltd. for the publication of the weekly parts of the *Ontario Reports*. The features of the new contract are as follows:

1. The Law Society will receive royalties from the publication of the *Ontario Reports*, whereas formerly it paid for the publication of the weekly parts.
2. Butterworths will provide an annual subsidy towards the purchase of books by the County and District Law Libraries.
3. Butterworths will sponsor an annual symposium on law reporting with specific reference to the *Ontario Reports*.
4. Butterworths will make full disclosure of all gross revenues.

In addition, a Subcommittee under the leadership of Gordon Henderson is working towards signing the new contract for the electronic version of our law reports — the Ontario Reports Database.

#### **• Great Library**

The 57-page report of the Subcommittee chaired by Dennis O'Connor on a long-range plan for the future development of the Great Library was approved by the full Committee and then Convocation. The report focuses on the library's inadequate accommodation for patrons, staff, technology and books. A further report on possible solutions to the space problem is expected shortly.

#### **• County Libraries**

The County Law Associations are in the midst of a capital development project to upgrade equipment and technology in the county libraries. The active involvement of the County and District Law Presidents' Association and the very generous financial support of the Law Foundation of Ontario have been instrumental in this

“technology-upgrade” program. Most county libraries have received some combination of new equipment:

- Photocopiers	- Electronic Typewriters
- Fax Machines	- Video Equipment

An important initiative for lawyers at some distance from Toronto is that all County Law Associations have now received videotapes of ten (10) Law Society CLE Programs from 1989 and soon will receive more videotapes from 1990. The videotapes for core programs are sent free of charge.

### *Law Society Medal Recipients*

Nominations for the award are reviewed by The Law Society Medal Committee which is composed of the Treasurer of the Society, four Benchers, the Chief Justice of Ontario, the President of the Canadian Bar Association — Ontario, the President of the Advocates Society and the Chair of the Ontario Law Deans. The following members were awarded the Law Society Medal:

#### *John Joseph Kelly, Q.C.*

Mr. Kelly was called to the Bar in 1951 and has served his clients, his community and his profession with dedication. He is Past President and current Director of the Sir Thomas More Lawyers' Guild in Hamilton. He is also Past President and current Director of the Law Association for the Regional Municipality of Waterloo. He was counsel to and solicitor for the Conestoga Parkway Authority from 1963 – 1987. In addition, John Joseph Kelly was the founding Director of the Catholic Youth Organization of the Kitchener-Waterloo District.

#### *Benjamin Luxenberg, Q.C.*

Mr. Luxenburg was called to the Bar in 1920 and is awarded the medal in recognition of his dedicated service to the profession and public in the area of bankruptcy and insolvency law.

#### *Mary Jane Mossman*

Ms. Mossman is awarded the medal in recognition of her outstanding contribution to the development of women's rights both within the legal profession and society at large. She is the author of numerous highly acclaimed articles and learned papers and in addition has served the public and the profession as a Director of the Parkdale Legal Services and Manager of Clinic Funding, Ontario Legal Aid Plan.

*Douglas Sherbaniuk, Q.C.*

Mr. Sherbaniuk is awarded the medal in recognition of his career-long dedication to the profession in the area of taxation law. A law professor at the University of Toronto for 25 years, Mr. Sherbaniuk set a high standard of academic excellence in the field of income tax law and has imbued innumerable students with a respect for the law. Mr. Sherbaniuk has through his 23 years of service as the Director of the Canadian Tax Foundation made invaluable contributions to the development of fiscal legislation in Canada.

*Rino Stradiotto, Q.C.*

Mr. Stradiotto is awarded the medal in recognition of his contribution to the profession as a member and director of numerous voluntary groups including the Advocates' Society (Past President), the Canadian Bar Association—Ontario, The Sir Thomas More Lawyers' Guild and the Medico-Legal Society of Toronto (Past President). He has also contributed several articles on law reform in the area of health care. His dedication to the advancement of the Ontario health care system has been evidenced in both his professional and volunteer capacities.

**FINANCIAL STATEMENTS****THE LAW SOCIETY OF UPPER CANADA****June 30, 1990****AUDITORS' REPORT**

To the Members of  
**The Law Society of Upper Canada**

We have examined the balance sheet of **The Law Society of Upper Canada** as at June 30, 1990 and the General Fund statements of revenue and expenses, undesignated operating surplus and changes in financial position and the Consolidated Errors and Omissions Insurance Fund and Compensation Fund statements of revenue and expenses and balance of fund for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of the Society's funds as at June 30, 1990 and the results of operations of the funds and the changes in financial position of the General Fund for the year then ended in accordance with generally accepted accounting principles applied, after giving retroactive effect to the change in the method of accounting for fixed assets and the presentation of members' equity, as described in note 1 to the financial statements, on a basis consistent with that of the preceding year.



Toronto, Canada,  
August 10, 1990.

Chartered Accountants

**The Law Society of Upper Canada****BALANCE SHEET**

As at June 30

	1990 \$	1989 \$
<b>ASSETS</b>		[restated - note 1]
<b>General Fund</b>		
<b>Current</b>		
Cash	388,068	—
Short-term investments, at lower of cost and market value [approximate market value \$5,553,000; 1989 - \$9,409,000]	5,490,342	9,251,989
Accounts receivable [note 3]	1,892,883	930,158
Inventory	301,655	220,493
Prepaid expenses	209,020	166,413
<b>Total current assets</b>	8,281,968	10,569,053
<b>Fixed assets</b>		
Land, buildings and improvements [note 11]	12,607,226	7,424,000
Furniture and equipment	2,970,000	2,749,000
	15,577,226	10,173,000
Less accumulated depreciation [notes 3 and 11]	7,913,000	7,302,000
<b>Net fixed assets</b>	7,664,226	2,871,000
<b>Total assets - General Fund</b>	15,946,194	13,440,053
<b>Consolidated Errors and Omissions Insurance Fund [note 7]</b>		
Cash	2,009,699	—
Short-term investments, at lower of cost and market value [approximate market value \$20,441,000; 1989 - \$22,009,000]	19,949,661	21,537,876
Deductible portion of claims due from members	940,933	398,097
Interest and other receivables	2,078,568	1,753,826
Portfolio investments, at amortized cost [market value - \$51,892,000; 1989 - \$42,320,000]	54,065,263	42,233,219
<b>Total assets - Consolidated Errors and Omissions     Insurance Fund</b>	79,044,124	65,923,018
<b>Compensation Fund [note 8]</b>		
Cash	212,381	39,933
Short-term investments, at lower of cost and market value [approximate market value \$1,447,000; 1989 - \$4,443,000]	1,437,701	4,398,748
Interest and other receivables	668,625	580,883
Portfolio investments, at amortized cost [market value - \$26,451,000; 1989 - \$22,773,000]	27,484,210	22,696,479
<b>Total assets - Compensation Fund</b>	29,802,917	27,716,043
<b>Total assets administered</b>	124,793,235	107,079,114

See accompanying notes

On behalf of the Convocation:


  
Treasurer


  
Chair of Finance Committee

	1990	1989
	\$	\$
<i>[restated - note 1]</i>		
<b>LIABILITIES AND MEMBERS' EQUITY AND FUND BALANCES</b>		
General Fund		
Current		
Bank indebtedness	—	429,067
Deposits held	364,682	—
Accounts payable and accrued liabilities	2,877,764	1,841,954
Deferred revenue [note 5]	2,280,862	2,341,092
<b>Total current liabilities</b>	<b>5,523,308</b>	<b>4,612,113</b>
Non-current liabilities		
Mortgage payable	1,216,377	—
<b>Total liabilities</b>	<b>6,739,685</b>	<b>4,612,113</b>
Members' equity		
Undesignated operating surplus [note 6]	2,789,809	5,956,940
Equity in fixed assets	6,416,700	2,871,000
<b>Total members' equity</b>	<b>9,206,509</b>	<b>8,827,940</b>
<b>Total liabilities and members' equity - General Fund</b>	<b>15,946,194</b>	<b>13,440,053</b>
<b>Consolidated Errors and Omissions Insurance Fund [note 7]</b>		
Bank indebtedness	—	380,569
Accounts payable and accrued liabilities	648,859	1,397,123
Prepaid levies and other deferred revenue	5,101,031	6,410,122
Reserve for unpaid claims	61,439,517	54,102,383
Balance of fund	11,854,717	3,632,821
<b>Total liabilities and balance of fund -</b>		
<b>Consolidated Errors and Omissions Insurance Fund</b>	<b>79,044,124</b>	<b>65,923,018</b>
<b>Compensation Fund [note 8]</b>		
Accounts payable	1,982	2,957
Balance of fund	29,800,935	27,713,086
<b>Total liabilities and balance of fund - Compensation Fund</b>	<b>29,802,917</b>	<b>27,716,043</b>
<b>Total liabilities and members' equity and fund balances</b>	<b>124,793,235</b>	<b>107,079,114</b>

**The Law Society of Upper Canada****GENERAL FUND  
STATEMENT OF REVENUE AND EXPENSES**

Year ended June 30

	1990 \$	1989 \$
		<i>[restated - note 1]</i>
<b>REVENUE</b>		
<b>General</b>		
Annual fees	11,907,935	11,255,249
Legal aid levy and interest	4,217,770	3,781,323
County libraries - fees	1,012,642	1,019,022
- The Law Foundation of Ontario grant	740,000	675,000
Investment income	1,278,582	883,674
Catering	637,566	612,044
Library user fees	433,251	424,972
Call and admission fees	497,610	382,680
Other grants	280,000	296,858
Miscellaneous	262,685	276,785
Ontario reports royalty	86,377	62,179
<b>Total general revenue</b>	<b>21,354,418</b>	<b>19,669,786</b>
<b>Bar Admission Course</b>		
Tuition and book fees	2,326,450	1,671,711
Grants - Province of Ontario	897,520	863,000
- The Law Foundation of Ontario	1,135,903	743,437
<b>Total Bar Admission Course [note 3]</b>	<b>4,359,873</b>	<b>3,278,148</b>
<b>Continuing legal education [note 3]</b>	<b>2,187,925</b>	<b>2,080,773</b>
<b>Total revenue</b>	<b>27,902,216</b>	<b>25,028,707</b>
<b>EXPENSES</b>		
<b>General</b>		
Legal Aid Plan share of assessable administrative costs	4,217,770	3,583,958
Libraries and reporting	2,263,279	2,009,001
County libraries	1,976,221	1,831,837
Secretariat	2,308,000	1,948,654
Finance and administration	1,765,183	1,666,579
Discipline	1,656,084	1,493,353
Buildings and ground	1,734,156	1,385,554
Audit	1,603,257	1,177,741
Public information	1,314,121	1,097,399
Catering	627,231	596,755
Unauthorized practice	354,904	210,923
Professional conduct	150,423	152,533
Muniments and memorabilia	178,801	148,443
County and district liaison	59,355	59,305
Admissions	90,790	47,143
French language services	35,153	—
Depreciation	611,000	593,000
<b>Total general expenses</b>	<b>20,945,728</b>	<b>18,002,178</b>
<b>Bar Admission Course [note 3]</b>	<b>4,359,873</b>	<b>3,278,148</b>
<b>Continuing legal education [note 3]</b>	<b>2,218,046</b>	<b>1,962,807</b>
<b>Total expenses</b>	<b>27,523,647</b>	<b>23,243,133</b>
<b>Excess of revenue over expenses for the year</b>	<b>378,569</b>	<b>1,785,574</b>

*See accompanying notes*

**The Law Society of Upper Canada****GENERAL FUND  
STATEMENT OF UNDESIGNATED OPERATING SURPLUS**

Year ended June 30

	<b>1990</b>	<b>1989</b>
	\$	\$
<b>Balance, beginning of year</b>		<i>[restated - note 1]</i>
As previously reported	<b>5,956,940</b>	2,906,536
Adjustment for restatement of prior year's figures	<u>—</u>	1,528,644
<b>Balance, as restated</b>	<b>5,956,940</b>	4,435,180
Excess of revenue over expenses for the year	378,569	1,785,574
Allocation to equity in fixed assets	(3,545,700)	(263,814)
<b>Balance, end of year</b>	<b>2,789,809</b>	<b>5,956,940</b>

*See accompanying notes*

**The Law Society of Upper Canada****CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND  
STATEMENT OF REVENUE AND EXPENSES AND  
BALANCE OF FUND**

Year ended June 30

	1990	1989
	\$	\$
<b>REVENUE</b>		
Members' levy	24,788,539	20,131,092
Investment income	7,754,292	5,826,670
Miscellaneous	18,661	38,730
<b>Total revenue</b>	<b>32,561,492</b>	<b>25,996,492</b>
<b>EXPENSES</b>		
Provision for claims, defence and related costs	20,198,758	20,249,178
Insurance premium	1,902,982	3,463,733
Salaries	1,063,528	751,408
Administration	579,048	448,037
Brokerage fees	100,000	100,000
Rent	146,334	144,283
Practice advisory services	348,946	396,651
<b>Total expenses</b>	<b>24,339,596</b>	<b>25,553,290</b>
<b>Excess of revenue over expenses for the year</b>	<b>8,221,896</b>	<b>443,202</b>
<b>Balance of fund, beginning of year</b>	<b>3,632,821</b>	<b>3,189,619</b>
<b>Balance of fund held for future claims and expenses, end of year</b>	<b>11,854,717</b>	<b>3,632,821</b>

*See accompanying notes*

**The Law Society of Upper Canada**

**COMPENSATION FUND  
STATEMENT OF REVENUE AND EXPENSES AND  
BALANCE OF FUND**

Year ended June 30

	1990	1989
	\$	\$
<b>REVENUE</b>		
Annual levy	1,080,772	2,804,315
Investment income	2,928,243	2,456,610
<b>Total revenue</b>	<b>4,009,015</b>	<b>5,260,925</b>
<b>EXPENSES</b>		
Grants paid, less recoveries	1,429,430	365,851
Counsel fees, referee fees and administrative costs	251,239	55,255
Salaries and benefits	193,722	193,364
Reporters and sundries	46,775	13,604
Computer project	—	4,855
<b>Total expenses</b>	<b>1,921,166</b>	<b>632,929</b>
<b>Excess of revenue over expenses for the year</b>	<b>2,087,849</b>	<b>4,627,996</b>
Balance of fund, beginning of year	27,713,086	23,085,090
<b>Balance of fund, end of year</b>	<b>29,800,935</b>	<b>27,713,086</b>

*See accompanying notes*

## The Law Society of Upper Canada

**GENERAL FUND**  
**STATEMENT OF CHANGES IN FINANCIAL POSITION**

Year ended June 30

	1990 \$	1989 \$
		<i>[restated - note 1]</i>
<b>OPERATING ACTIVITIES</b>		
Excess of revenue over expenses for the year	378,569	1,785,574
Item not affecting cash		
Depreciation	611,000	593,000
Other operating sources (uses)		
Accounts receivable	(962,725)	(43,747)
Inventory	(81,162)	(54,408)
Prepaid expenses	(42,607)	(166,413)
Deposits held	364,682	—
Accounts payable and accrued liabilities	1,004,661	24,017
Deferred revenue	(60,230)	184,417
<b>Cash provided by operating activities</b>	<b>1,212,188</b>	<b>2,322,440</b>
<b>INVESTING ACTIVITIES</b>		
Fixed asset additions	(6,642,226)	(302,000)
Grant	1,238,000	—
<b>Cash used in investing activities</b>	<b>(5,404,226)</b>	<b>(302,000)</b>
<b>FINANCING ACTIVITIES</b>		
Assumed mortgage payable	1,262,000	—
Mortgage repayments	(14,474)	—
<b>Cash provided by financing activities</b>	<b>1,247,526</b>	<b>—</b>
<b>Net change in cash and short-term investments</b>	<b>(2,944,512)</b>	<b>2,020,440</b>
<b>Cash position, beginning of year</b>	<b>8,822,922</b>	<b>6,802,482</b>
<b>Cash position, end of year</b>	<b>5,878,410</b>	<b>8,822,922</b>
<b>Cash position represented by</b>		
Short-term investments	5,490,342	9,251,989
Cash (bank indebtedness)	388,068	(429,067)
	<b>5,878,410</b>	<b>8,822,922</b>

*See accompanying notes*

## NOTES TO FINANCIAL STATEMENTS

June 30, 1990

### 1. CHANGES IN BASIS OF ACCOUNTING

Several amendments have been made to the accounting policies used to prepare the financial statements that affect the members' equity [formerly balance of General Funds] as well as other financial statement items.

In prior years, the Law Society of Upper Canada [the "Society"] did not record depreciation on its fixed assets; however, an annual appropriation for major capital expenditures was made from operating surplus. During the year, the Society adopted, on a retroactive basis, an accounting policy of depreciating its fixed assets. As a result of this change in accounting policy, fixed assets are now presented at cost, net of accumulated depreciation. The Society continues to present separately its equity in fixed assets as a component of members' equity in order to present to its members its investment in capital assets.

The Society has amended its presentation of amounts received for designated purposes in excess of related expenses. These amounts have been reclassified as deferred revenues.

The prior year's financial statements have been restated to conform with these new policies. Consequently, the General Fund's excess of revenue over expenses for the year was decreased by \$611,000 [1989 - \$593,000] for the change in the method of accounting for fixed assets. In conjunction with the above changes, the fixed assets were restated to their historical cost less the applicable accumulated depreciation.

### 2. SIGNIFICANT ACCOUNTING POLICIES

The Society uses fund accounting, whereby the General Fund is used to account for the Society's various operations, the Compensation Fund for its compensation grants, and the Consolidated Errors and Omissions Insurance Fund for insurance claims [partly self-insured] and for administrative costs and adjusters' fees.

Short-term investments are stated at the lower of cost and market value.

Portfolio investments held for the Compensation Fund and the Consolidated Errors and Omissions Insurance Fund are recorded at cost, net of amortization of premiums and discounts. Premiums and discounts from the par value are amortized over the term to maturity.

Inventory is valued at the lower of cost and net realizable value.

Land, buildings, furnishings and major alterations are presented at cost net of accumulated depreciation and amortization and grants. Depreciation and amortization are charged to expense on a straight-line basis over the estimated useful lives of the assets as follows:

**The Law Society of Upper Canada****NOTES TO FINANCIAL STATEMENTS**

June 30, 1990

Buildings	30 years
Building and leasehold improvements	10 years
Furniture and office equipment	3 to 5 years

Minor capital expenditures including the purchase of books for the Great Library are expensed in the year of acquisition. An allocation is made to members' equity for the net investment in fixed assets for information purposes.

The reserve for unpaid claims includes estimates for outstanding case reserves [including adjuster, legal and other related fees] and a supplemental amount for incurred but not reported claims. It is presented net of estimated member deductible and insurance recoveries, and anticipated investment income. The net reserve was evaluated by an independent actuary using historical experience to June 30, 1990.

Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

Grants from the Compensation Fund are recognized when the amount is determined.

The work of the Society is dependent on the voluntary services of the benchers, lay benchers, and other members of the profession. These services are received gratuitously, therefore, no value has been included in these financial statements.

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General of Ontario on the accounts and financial transactions of the Legal Aid Fund. The financial statements of the Legal Aid Fund are subject to audit by the Provincial Auditor, and are not included in these financial statements. The activities of the Advocates' Society Institute, a related organization, are not incorporated into these financial statements.

## The Law Society of Upper Canada

### NOTES TO FINANCIAL STATEMENTS

June 30, 1990

#### 3. LEGAL EDUCATION

The Society receives an annual grant from the Province of Ontario. In addition in 1990 a grant was received from The Law Society Foundation to cover the operating deficits up to a maximum of \$650,000.

	Authorized	Utilized
	\$	\$
1989/1990 Operating deficit	up to a maximum of 650,000	639,693
Bar Admission Course Reform	540,000	382,862
French language translation of courses	155,000	113,348
		1,135,903
Less amount received during the year		564,983
<b>Amount receivable at June 30, 1990</b>		<b>570,920</b>

The unutilized portions of the Bar Admission Course Reform and the French language translation of courses grants are available to offset expenditures during the 1991 fiscal year.

#### Capital expenditures

During 1990, the Society purchased property and building at 44 Eccles Street in Ottawa. This location houses the Ottawa Bar Admission Course and Continuing Legal Education courses.

The purchase price of \$2,500,000 was partially offset by a \$1,238,000 grant from the Law Foundation of Ontario. The remaining balance was funded by The Toronto-Dominion Bank through an assumed 10% first mortgage. The balance of the mortgage at June 30, 1990 is \$1,247,526 and is repayable in blended monthly installments of \$12,875.

#### Legal education operating results

The results of operations of the Society's legal education programs are as follows:

	Bar Admission Course	Continuing legal education
	\$	\$
Revenue	4,359,873	2,187,925
Expenses	4,359,873	2,218,046
<b>Excess of expenses over revenue for the year</b>	<b>—</b>	<b>(30,121)</b>

## The Law Society of Upper Canada

### NOTES TO FINANCIAL STATEMENTS

June 30, 1990

#### 4. THE LAW FOUNDATION OF ONTARIO - GENERAL GRANTS

##### County and district library grants

The Society obtained a grant of \$740,000 from The Law Foundation of Ontario, on behalf of county and district libraries of which \$402,500 was receivable at June 30, 1990.

##### Other grants

A further \$370,000 was received from The Law Foundation of Ontario to support Dial-a-Law, muniments and memorabilia, the Great Library book collection and publication of the Gazette.

#### 5. DEFERRED REVENUE

Deferred revenue consists of the following:

	1990	1989
	\$	\$
Legal aid	1,571,167	1,866,748
Tuition fees	415,465	264,521
Education - employment placement	53,540	8,277
French language services	41,742	—
Articling matching programme	26,930	27,000
Muniments and memorabilia	20,958	4,781
Library		
Levies	132,783	85,762
The Law Foundation of Ontario grants	18,277	84,003
	<u>2,280,862</u>	<u>2,341,092</u>

Annual fees for 1990 included an amount of \$175 per member as the Society's contribution to the administration of the Legal Aid Plan. The designated legal aid deferred revenue represents the difference between the accumulated funds collected from members and the statutory contributions to the Legal Aid Plan through to its fiscal year ended March 31, 1990.

#### 6. MEMBERS' EQUITY - UNDESIGNATED OPERATING SURPLUS

The Finance Committee has allocated \$100,000 for celebration of the Society's bicentennial.

## The Law Society of Upper Canada

### NOTES TO FINANCIAL STATEMENTS

June 30, 1990

#### 7. CONSOLIDATED ERRORS AND OMISSIONS INSURANCE FUND

The Society's current errors and omissions insurance program insures members against claims for errors discovered from calendar year 1977 onwards, with claims being covered, for 1983 to the present, on the following basis:

	1990	1989	1988	1987	1983 through 1986
	\$	\$	\$	\$	\$
<b>Borne by</b>					
Consolidated Errors and					
Omissions Insurance Fund,					
including members'					
deductible	first	250,000	250,000	150,000	150,000
Insurer	next	750,000	750,000	450,000	450,000
<b>Total coverage per</b>					
<b>occurrence</b>					
	1,000,000	1,000,000	600,000	600,000	500,000

A separate fund is established each year to provide for claims reported to the Society during that year. The maximum fund loss experience for any year, up to and including 1989, is limited by a stop loss agreement with the insurer. There is no stop loss agreement for 1990. For 1990, the Society subscribed to an insurance policy that has a sliding scale premium. Consequently, the Society is contingently liable for an amount of \$2,375,000 this being the difference between the minimum and maximum premiums, such amount to be adjusted based on actual incurred loss experience. The maximum recovery from the insurers for 1990 is limited to \$15,000,000.

An analysis of the reserve for unpaid claims at June 30, 1990 is as follows:

	\$
Gross ultimate liability	128,773,517
Estimated recoveries from insurers	24,424,000
Estimated member deductibles	21,823,000
	82,526,517
Anticipated investment income, at a rate of 10%	21,087,000
<b>Net reserve</b>	<b>61,439,517</b>

An independent actuary has evaluated and confirmed the foregoing reserves based on their actuarial study.

## The Law Society of Upper Canada

### NOTES TO FINANCIAL STATEMENTS

June 30, 1990

The change in reserves set aside to meet unpaid claims is as follows:

	1990	1989
	\$	\$
<b>Reserve balance, beginning of year</b>	<b>54,102,383</b>	45,025,065
Provision for unpaid claims	20,198,758	20,249,178
Less payments	(12,861,624)	(11,171,860)
<b>Reserve balance, end of year</b>	<b>61,439,517</b>	54,102,383

Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1990 amount to \$208,804 [1989 - \$90,858].

On May 31, 1990, the Society organized and incorporated The Lawyers' Professional Indemnity Company, a wholly-owned insurance company with a capitalization of \$5,000,000 provided by the fund.

### 8. COMPENSATION FUND

Convocation may make grants from the Compensation Fund in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants. At the year end, claim applications of approximately \$7,941,685 [1989 - \$11,311,445] had been received. Grants are made within the discretionary limits approved by Convocation. Strict application of the applicable limits to existing claims indicates that the maximum grants under the program would aggregate \$3,174,415 [1989 - \$4,036,769].

### 9. ENDOWMENT FUNDS

The Society administers endowment funds from earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$419,463 [1989 - \$408,581], of which \$236,344 was capital and the balance of \$183,119 [1989 - \$172,237] was unexpended income. Prizes, bursaries and gifts of \$16,755 [1989 - \$14,859] were paid during the year.

## The Law Society of Upper Canada

### NOTES TO FINANCIAL STATEMENTS

June 30, 1990

#### 10. PENSION PLAN

The Society maintains a defined contribution pension plan for all eligible employees. The plan covers 164 employees of the Society and 242 employees at the offices of the Legal Aid Plan. The Society matches its employees' contributions to the plan.

The Society's annual pension expense [excluding Legal Aid] for 1990 amounted to \$281,365 [1989 - \$210,745].

#### 11. COMMITMENTS

##### Operating leases

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to June, 1995. Aggregate monthly lease payments over the next five years and in total are as follows:

	1991 \$	1992 \$	1993 \$	1994 \$	1995 \$	Total \$
<b>General Fund</b>						
Bar Admission Course						
London	89,512	88,287	—	—	—	177,799
20 Queen St. W.	304,929	177,875	—	—	—	482,804
204 Richmond Street W.	404,743	147,221	—	—	—	551,964
Computer equipment	85,043	85,043	85,043	85,043	85,043	425,215
	884,227	498,426	85,043	85,043	85,043	1,637,782
<b>Consolidated Errors and Omissions Insurance Fund</b>						
20 Queen St. W.	213,975	124,819	—	—	—	338,794
	<b>1,098,202</b>	<b>623,245</b>	<b>85,043</b>	<b>85,043</b>	<b>85,043</b>	<b>1,976,576</b>

##### Osgoode Hall renovations

During the year, renovation and construction began at the Society's offices at Osgoode Hall. As at June 30, 1990, expenditures totalled \$3,933,977 of a total estimated commitment of approximately \$13,500,000. The Society is currently negotiating the financing for this project. This expansion entails the renovation of the education wings, as well as the addition of two floors to the existing structure.

## **NOTES TO FINANCIAL STATEMENTS**

June 30, 1990

### **12. INSURED VALUE OF SOCIETY ASSETS**

The buildings and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$46,820,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$19,090,000. The books and records located at county and district libraries are valued for insurance purposes at an estimated replacement cost of \$18,402,000.

### **13. RECLASSIFICATION**

Certain of the 1989 comparative figures have been reclassified to conform to the presentation adopted in the current year.

## *Changes In The Membership Of Convocation*

On October 27, 1989 Helen King MacLeod was appointed to the District Court. J. Douglas Thoman, Q.C. replaced Ms. MacLeod in Convocation.

On February 1, 1990 A. Burke Doran, Q.C. resigned as a Bencher. Colin L. Campbell, Q.C. replaced Mr. Doran as a Bencher.

On March 22, 1990 Ian W. Outerbridge, Q.C. resigned as a Bencher. Sandra Chapnik replaced Mr. Outerbridge in Convocation.

Former Chief Justice W.G.C. Howland returned to Convocation on May 2, 1990.

The election of James M. Spence, Q.C. as Treasurer on June 22, 1990 created a vacancy which was filled by Diana M. Hunt.

## *The Benchers Of The Law Society Of Upper Canada at June 30, 1990*

### **TREASURER**

James M. Spence, Q.C.

### **HONORARY BENCHERS**

Her Majesty Queen Elizabeth, The Queen Mother

The Rt. Hon. Roland Michener, P.C., Q.C.

The Rt. Hon. Margaret Thatcher, M.P.

Kenneth Jarvis, Q.C., R.C.A.

### **ELECTED BENCHERS**

Thomas G. Bastedo

Denise Bellamy

Rino C. Bragagnolo, Q.C.

Colin L. Campbell, Q.C.

Thomas J.P. Carey

Robert J. Carter, Q.C.

Sandra Chapnik

Maurice C. Cullity, Q.C.

Philip M. Epstein, Q.C.

G.H.T. Farquharson, Q.C.

Roderick G. Ferguson, Q.C.

Patrick G. Furlong, Q.C.

John D. Ground, Q.C.  
Hugh Guthrie, Q.C.  
D. Jane Harvey  
Michael G. Hickey, Q.C.  
Kenneth E. Howie, Q.C.  
Diana M. Hunt  
Frances Kiteley  
P.S.A. Lamek, Q.C.  
Donald H.L. Lamont, Q.C., LSM  
Samuel Lerner, Q.C.  
Earl J. Levy  
Jeffery S. Lyons, Q.C.  
Colin D. McKinnon, Q.C.  
Ronald D. Manes  
Daniel J. Murphy, Q.C.  
C. Bruce Noble, Q.C.  
Dennis R. O'Connor, Q.C.  
Patricia J. Peters, Q.C.  
Allan M. Rock, Q.C.  
Clayton C. Ruby  
Bernard Shaffer, Q.C.  
Marc J. Somerville, Q.C.  
Harvey T. Strosberg, Q.C.  
J. Douglas Thoman, Q.C.  
Robert C. Topp  
J. James Wardlaw, Q.C.  
Mary P. Weaver, Q.C.  
Roger D. Yachetti, Q.C.

**APPOINTED BENCHERS**

June Callwood  
Netty Graham  
Elizabeth Poulin  
Anne-Marie Stewart

**BENCHERS EX OFFICIO**

The Hon. John D. Arnup, O.C.  
Frederick M. Cass, Q.C.  
Ronald W. Cass, Q.C.  
John T. Clement, Q.C.  
Austin M. Cooper, Q.C.  
S. E. Fennell, Q.C., LSM  
Lee K. Ferrier, Q.C.

Edwin A. Goodman, Q.C.  
Gordon F. Henderson, Q.C.  
The Hon. W.G.C. Howland, Q.C.  
Robert S. Kemp-Welch, Q.C.  
The Hon. Allan F. Lawrence, P.C., Q.C.  
H. F. McCulloch, Q.C.  
R. Roy McMurtry, Q.C.  
Brendan O'Brien, Q.C.  
P.B.C. Pepper, Q.C.  
Alan W. Pope, Q.C.  
J.J. Robinette, Q.C.  
Arthur R.A. Scace, Q.C.  
The Hon. Ian G. Scott, Q.C., Attorney General for Ontario  
Nathan Strauss Q.C.  
Stuart Thom, Q.C.

*The Law Society Of Upper Canada  
Senior Management at June 30, 1990*

**UNDER TREASURER**

Donald A. Crosbie, Q.C.

**SECRETARY**

Richard F. Tinsley

**DEPUTY SECRETARY**

Margaret J. Angevine

**DIRECTOR, FINANCE**

David Crack

**DIRECTOR, INSURANCE**

Lin Whitman

**DIRECTOR, EDUCATION**

Alan Treleaven

**CHIEF LIBRARIAN**

Glen Howell

**DIRECTOR, LEGAL AID**

Robert L. Holden